"All summonses, warrants, orders, rules, notices and mandatory processes whatsoever, whether civil or criminal, shall be issued and shall be expressed to be issued by the Chief Justice of the High Court issuing the same in the name of the Yang di-Pertuan Agong and shall be signed by a registrar of such court; and every such summons, warrant, order, rule, notice and mandatory process shall be sealed with the seal of the court issuing or making the same."

That provision is a general provision. Bankruptcy is a special matter and it is dealt with by special law. Because *generalia specialibus non derogant*, I hold that the bankruptcy notice, to be valid, need only comply with section 3(2) of the Bankruptcy Ordinance, 1959 (now section 3(2) of the new Bankruptcy Act, 1967). It need not be issued and expressed to be issued by the Chief Justice in the name of the Yang di-Pertuan Agong. This bankruptcy notice was in the prescribed form and is therefore valid. There is no need for me to consider the effect of the other provisions cited by Nik Saghir, namely, section 131 of the Bankruptcy Ordinance, Bankruptcy rule 289 and section 72 of the Courts of Judicature Act, 1964.

The second ground of appeal also fails.

I would accordingly dismiss this appeal with costs.

Barakbah L.P. and **Ismail Khan J.** concurred.

Appeal dismissed.

PUBLIC PROSECUTOR v. ABDUL MAJID

[A.Cr.J. (Raja Azlan Shah J.) February 17, 1968]

[Malacca — Criminal Appeal No. 1 of 1968]

Penal Code ss. 392 & 394 — Armed robbery at night — Sentence — Inadequate sentence.

A sentence of nine months' imprisonment is manifestly inadequate on a charge of armed robbery by night in the course of which one of the victims was badly assaulted. Sentence enhanced to two years. *Public Prosecutor* v. *Yap Chong Fatt* (1) distinguished.

Case referred to:—

(1) *Public Prosecutor* v. *Yap Chong Fatt* [1963] M.L.J. 136, 137.

MAGISTRATE'S CRIMINAL APPEAL.

Abdullah bin Ngah (Deputy Public Prosecutor) for the appellant.

Respondent/Accused in person.

Raja Azlan Shah J.: This is an appeal against conviction. The appellant was found guilty under section 392 Penal Code read with section 394 and was sentenced to nine months imprisonment. Shortly stated, the facts are that the accused with three other persons at large committed armed robbery on July 26, 1967 and in the course of the robbery he assaulted one of the victims. The learned president in imposing sentence of nine months imprisonment was influenced by the observations of the learned Chief Justice in the case of *Public Prosecutor* v. *Yap Chong Fatt.*(1) I quote the relevant passage:—

"If the offence is too serious for that and merits imprisonment then a sentence of imprisonment should be imposed which will have some effect not only on the offender but also as a deterrent and which will give the prisons department some opportunity of trying to remedy such defect of character of there may be. In my opinion the proper sentence in this case, if the accused was not to be bound over and if imprisonment was thought necessary (and it probably was necessary) was one of something from nine months to a year".

Now, that was a case of house-breaking where the accused was sentenced to two weeks imprisonment which he duly served. The amount of property involved was $50. The accused was a first offender. In my view, the present case is on a different plan altogether. This is a case of armed robbery by night in the course of which one of the victims was badly assaulted. The facts are therefore different from that of *Yap Chong Fatt's* case and therefore different considerations apply in order to strike a fair balance between the interests of the accused on the one hand and the interests of the public on the other.

It is my judgment that the observations relied upon by the learned president should be understood as stating a general proposition relating to the peculiar circumstances of that case. It merely lays down broad principles of law in the assessment of punishment and it may form a useful guide in similar cases. The sentence in the present case is manifestly inadequate. I increase the sentence to two years to take effect from the date of arrest.

Sentence enhance.